IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10567 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UMRALA PEOPLE CREDIT COOPERAT-IVE SOCIETY LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10567 of 2002

MR BM MANGUKIYA for Petitioner No. 1

MR PREMAL JOSHI, Ld. AGP for Respondent No. 1-3

MR VC VAGHELA for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 07/08/2003

ORAL JUDGEMENT

1. Rule. Mr.Joshi, learned AGP waives service of rule on behalf of respondents No.1, 2, and 3. Mr.Vaghela, learned Counsel waives service of rule on

behalf of respondent No.4. With the consent of the parties, the matter is taken up for final hearing today.

2. The only question involved in this petition is whether the State Government was justified in allowing the revision application on the ground that the population of Umrala Taluka is less than ten thousand and, therefore, the registration granted to the petitioner Society deserves to be cancelled.

3. The short facts of the case are that respondent No.4 Society is operating in the working area of Umrala Taluka. The petitioner applied for registration of its society. However, the working area of the petitioner society is also Umrala Taluka. The registration was granted by the District Registrar against which appeal was preferred before the Additional Registrar (Appeals), Gujarat State, being No.21/2002. The said appeal came to be partly allowed to the extent that the members who obtained loan from respondent No.4 society and others who are defaulters have to re-pay the said amount and the petitioner was directed to relieve the new members who are members of respondent No.4 Society. The said decision of Addl. Registrar (Appeals) was carried in revision by respondent No.4 and the State Government, while considering the matter, observed that the population of Umrala is less than ten thousand and in the same village when there is already a Society in existence since last 30 years, it will have the financial repercussions to the public at large and to the small investors and, therefore, allowed the revision and set aside the orders of the District Registrar as well as of the Additional Registrar (Appeals). The said order of the State Government is challenged in this petition.

4. On 25-10-2002, when the notice was issued by this Court, the learned Counsel appearing for the petitioner had declared before the Court that the functioning after the order of the State Government shall be stopped unless it is specifically permitted by the interim orders of this Court. The said status quo has continued even today as declared by Mr.Mangukiya, appearing for the petitioner.

5. I have heard Mr.Mangukiya, learned Counsel for the petitioner, Mr.Joshi, learned AGP for the State authorities and Mr.Vaghela, learned Counsel for respondent No.4.

6. It appears that the working area of respondent No.4 Society as well as of the petitioner Society is of

Umrala Taluka and not only Umrala Town. The population of Umrala Town appears to be of 8,973, which is less than ten thousand. It is the case of the petitioner herein that the population of Umrala Taluka is between 89,000 and 90,000 and there is no answer to the said contention for negativing the said factual position, therefore, I find that the population of Umrala Taluka is around 90,000. If such is the position, then the State Government has committed error apparent on the face of record in allowing the revision only on the ground of population of Umrala Town without considering the population of Umrala Taluka. The said aspect has relevance because the State Government after observing the population further proceeded on the basis that since the population is less than ten thousand and one society is already there in existence, the other society, if registered, will have adverse effect upon the financial aspect and it will have adverse effect on the small investors also. Therefore, if the population is in reality exceeding ten thousand, the observations made by the State Government in the order cannot be sustained, because the basis itself would be not only ill-founded, but nonexistent. Therefore, I find that the State Government while passing the order dated 11-9-2002 has committed error apparent on the face of record and the matter deserves to be remanded for consideration by the State Government.

7. In view of the aforesaid discussion, the order dated 11-9-2002 passed by the State Government at Annexure "N" in Revision Application No.96/2002 is quashed and set aside and it is further directed that the State Government shall reconsider the matter including the question of population of Umrala Taluka and shall render the decision in accordance with law as early as possible, preferably within a period of three months from the date of receipt of the writ of this Court. Until the State Government passes the final order, the declaration made by the learned Counsel when this Court passed the initial order on 25-10-2002 of not to function shall continue. The petition is allowed to the aforesaid extent. Rule made absolute accordingly. No costs.

7-8-2003 (Jayant Patel, J.)

vinod